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Richard D. Conard
Barnes & Thornburg
11 S. Meridian Street
Indianapolis, IN 46204

EXAMINER

PWU, JEFFREY C

ART UNIT PAPER NUMBER

2143

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/039,584

Applicant(s)

BUECHLER ET AL.

Examiner

Jeffrey C. Pwu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/7/06 Amendment.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-63 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-63 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-63 are rejected under 35 U.S.C. 102(e) as being anticipated by Joao (U.S. 6,283,761).

Joao teaches claims:

1. A method for a first healthcare provider to consult a second healthcare provider regarding at least one of diagnosis and treatment of a patient, the method including the first healthcare provider requesting a consultation on a machine via the internet, and the second healthcare provider submitting a consultation on a machine via the internet, (col.5, line 45- “The present invention can also be utilized to perform treatment evaluations and/or treatment monitoring so as to allow for an evaluation and/or a monitoring of treatment”) wherein requesting a consultation includes consult data and submitting a consultation includes the second healthcare provider’s assessment and/or diagnosis. (“The database 10H also includes data and/or information regarding all possible fields of medicine, surgery, psychiatry, psychology, dentistry, oral surgery, optometry, podiatry, physical therapy, respiratory therapy, hypnosis, osteopathy, nutrition, wellness, and/or any other possible healthcare fields and/or subject matter which can possibly by

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utilized in the processing and/or operation of the present invention. The database 10H contains information on illnesses, symptoms, diseases and/or sicknesses, theories, scientific theories, research data and/or information, diagnosis information, treatment information, treatment plans, treatment processes, treatment progresses, treatment interactions, side effects, expected treatment results, treatment providers, treatment durations, treatment costs, pre-treatment information, post-treatment information, treatment monitoring information, statistical information regarding diagnoses, treatments, treatment success rates, treatment failure rates, treatment centers, therapy plans, therapy success rates, therapy failure rates, treatment procedures, medications treatments, non-medication treatments, healthcare institutions, treatment evaluating criteria, treatment mistakes and/or mishaps, indicators of mistakes and/or mishaps, corrective actions, links to providers, links to treatment centers or institutions, reimbursement rates, nutrition information, diet information, exercise information, exercise routines, treatment options, healthcare advice, wellness advice, preventive care, preventive procedure, health maintenance, drug and medication information, drug interaction information, video information, including video files or clips and other information, regarding illnesses, diseases, treatments and follow-up care, audio information, including audio files or clips and other information, regarding illnesses, diseases, treatments and follow-up care, treatment and/or procedure information and/or narratives, treatment analysis, diagnosis analysis, diagnosis monitoring, diagnosis confirmation and/or checking, and/or other information for providing the herein-described functions, services, and/or operations.”)

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2. The method of claim 1 wherein the first healthcare provider requesting a consultation on a machine, and the second healthcare provider submitting a consultation on a machine together include the first healthcare provider requesting a consultation on a first machine, and the second healthcare provider submitting a consultation on a second machine coupled to the first machine.

(“The operation of the apparatus 100 will then cease at step 1412. In this manner, the present invention can provide for the automatic and/or for the programmed submission of healthcare claims, claim forms, claim requests, benefit requests, etc., upon the conclusion of a provider's service, consultation, treatment, procedure, and/or any other event which triggers coverage under a healthcare insurance policy and/or a payer's liability to pay for services and/or treatments.”)

3. The method of claim 2 wherein the first healthcare provider requesting a consultation on a first machine, and the second healthcare provider submitting a consultation on a second machine coupled to the first machine together include the first healthcare provider requesting a consultation on a first machine, and the second healthcare provider submitting a consultation on a second machine coupled to the first machine via a third machine coupled to the first machine and to the second machine. (20, 30, 40, 50)

4. The method of claim 3 wherein the first healthcare provider requesting a consultation on a first machine, and the second healthcare provider submitting a consultation on a second machine coupled to the first machine via a third machine coupled to the first machine and to the second machine includes receiving the request for a consultation from the first machine at the third machine, storing the request for a consultation on the third machine, sending from the third

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machine a communication to the second healthcare provider that the request for a consultation is awaiting action by the second healthcare provider, the second healthcare provider receiving the communication, and the second healthcare provider gaining access to the third machine to obtain the request for a consultation from the third machine. (1401-1406; col.39, lines 38-53 “In any and/or all of the embodiments described herein, any patient, provider, payer, user, and/or intermediary can access any one or more of the central processing computer(s) 10, the providers communication devices (20), the payer communication devices 30, the patient communication devices 40, and/or the intermediate communication devices 50, via any one or more of the said computers and/or communication devices 10, 20, 30, 40, and/or 50, as well as via any computer and/or communication device. In this manner, any of the herein-described parties can access the present invention from any computer and/or communication device. Public kiosks with links to any of the computers and/or communication devices 10, 20, 30, 40, and/or 50, can also be utilized to access and utilize the present invention and/or any of the computers and/or communication devices described”)

5. The method of claim 4 further including the second healthcare provider requesting a consultation on the second machine, and a third healthcare provider submitting a consultation on a fourth machine coupled to the second machine. (1401-1406; 1407-1411)

6. The method of claim 5, wherein the second healthcare provider requesting a consultation on the second machine, and the third healthcare provider submitting a consultation on a fourth machine coupled to the second machine together include the second healthcare provider

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requesting a consultation on the second machine, and the third healthcare provider submitting a consultation on the fourth machine coupled to the second machine via the third machine coupled to the fourth machine. (col.39, lines 38-53)

7. The method of claim 6 wherein the second healthcare provider requesting a consultation on the second machine, and the third healthcare provider submitting a consultation on the fourth machine coupled to the second machine via the third machine includes receiving the request for consultation from the second machine at the third machine, storing the request for consultation on the third machine, sending from the third machine a communication to the third healthcare provider that the request for consultation is awaiting action by the third healthcare provider, the third healthcare provider receiving the communication, and the third healthcare provider gaining access to the third machine to obtain the request for consultation from the third machine. (col.39, lines 38-53)

8. The method of claim 7 further including the third machine identifying the request for consultation as pending until one of the second healthcare provider and the third healthcare provider submits a consultation response. (col.39, lines 38-53)

9. The method of claim 4 further including the third machine identifying the request for consultation as pending until the second healthcare provider submits a consultation response. (1407, 1411)

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10. The method of claim 8 wherein one of the second healthcare provider and third healthcare provider submitting a consultation response includes sending a communication from the third machine to the first healthcare provider that the consultation response is awaiting action by the first healthcare provider. (col.39, lines 38-53)

11. The method of claim 9 wherein the second healthcare provider submitting a consultation response includes sending from the third machine a communication to the first healthcare provider that the consultation response is awaiting action by the first healthcare provider. (col.39, lines 38-53)

12. The method of claim 10 further including the third machine identifying the request for consultation as fulfilled when the first healthcare provider submits an indication of acceptance of the consultation response. (col.39, lines 38-53)

13. The method of claim 11 further including the third machine identifying the request for consultation as fulfilled when the first healthcare provider submits an indication of acceptance of the consultation response. (col.39, lines 38-53)

14. The method of claim 1 wherein requesting a consultation includes submitting at least one of textual queries and textual statements. (1402-1405)

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15. The method of claim 1 wherein requesting a consultation includes submitting at least one of still images and moving images. (“The database(s) 10H can also contain healthcare and/or medical video, image, and/or audio, data and/or information, such as, for example, x-rays, Magnetic Resonant Images (MRI), CAT scans, digital x-ray files, digital Magnetic Resonant Imaging (MRI) files, digital CAT scan files, and/or any other video, imaging, and/or audio, healthcare data and/or information which can be utilized by healthcare providers, payers, intermediaries, patients, and/or other users of the present invention. In this manner, the present invention can facilitate the availability of any of the above-described video, image, and/or audio, data and/or information in a network environment. For example, a medical specialist can have access to, and/or review, an MRI or a CAT scan for a patient, from any location and at any time.”)

16. The method of claim 1 wherein requesting a consultation includes submitting sounds. (“The database(s) 10H can also contain healthcare and/or medical video, image, and/or audio, data and/or information”)

17. The method of claim 2 wherein requesting a consultation includes submitting at least one of textual queries and textual statements. (1402-1405)

18. The method of claim 2 wherein requesting a consultation includes submitting at least one of still images and moving images. (“The database(s) 10H can also contain healthcare and/or medical video, image, and/or audio, data and/or information, such as, for example, x-rays,

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Magnetic Resonant Images (MRI), CAT scans, digital x-ray files, digital Magnetic Resonant Imaging (MRI) files, digital CAT scan files, and/or any other video, imaging, and/or audio, healthcare data and/or information which can be utilized by healthcare providers, payers, intermediaries, patients, and/or other users of the present invention. In this manner, the present invention can facilitate the availability of any of the above-described video, image, and/or audio, data and/or information in a network environment. For example, a medical specialist can have access to, and/or review, an MRI or a CAT scan for a patient, from any location and at any time.”)

19. The method of claim 2 wherein requesting a consultation includes submitting sounds. (“The database(s) 10H can also contain healthcare and/or medical video, image, and/or audio, data and/or information”)

20. The method of claim 3 wherein requesting a consultations includes submitting at least one of textual queries and textual statements. (1402-1405)

21. The method of claim 3 wherein requesting a consultation includes submitting at least one of still images and moving images. (“The database(s) 10H can also contain healthcare and/or medical video, image, and/or audio, data and/or information, such as, for example, x-rays, Magnetic Resonant Images (MRI), CAT scans, digital x-ray files, digital Magnetic Resonant Imaging (MRI) files, digital CAT scan files, and/or any other video, imaging, and/or audio, healthcare data and/or information which can be utilized by healthcare providers, payers,

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intermediaries, patients, and/or other users of the present invention. In this manner, the present invention can facilitate the availability of any of the above-described video, image, and/or audio, data and/or information in a network environment. For example, a medical specialist can have access to, and/or review, an MRI or a CAT scan for a patient, from any location and at any time.”)

22. The method of claim 3 wherein requesting a consultation includes submitting sounds. (“The database(s) 10H can also contain healthcare and/or medical video, image, and/or audio, data and/or information”)

23. The method of claim 4 wherein requesting a consultation includes submitting at least one of textual queries and textual statements. (1402-1405)

24. The method of claim 4 wherein requesting a consultation includes submitting at least one of still images and moving images. (see database 10 H)

25. The method of claim 4 wherein requesting a consultation includes submitting sounds. (“The database(s) 10H can also contain healthcare and/or medical video, image, and/or audio, data and/or information”)

26. The method of claim 5 wherein requesting a consultation includes submitting at least one of textual queries and textual statements. (1402-1405)

27. The method of claim 5 wherein requesting a consultation includes submitting at least one of still images and moving images. (see database 10 H)

28. The method of claim 5 wherein requesting a consultation includes submitting sounds. (“The database(s) 10H can also contain healthcare and/or medical video, image, and/or audio, data and/or information”)

29. The method of claim 6 wherein requesting a consultation includes submitting at least one of textual queries and textual statements. (1402-1405)

30. Method of claim 6 wherein requesting a consultation includes submitting at least one of still images and moving images. (see database 10 H)

31. The method of claim 6 wherein requesting a consultation includes submitting sounds. (“The database(s) 10H can also contain healthcare and/or medical video, image, and/or audio, data and/or information”)

32. The method of claim 7 wherein request a consultation includes submitting at least one of textual queries and textual statements. (1402-1405)

33. The method of claim 7 wherein requesting a consultation includes submitting at least one of still images and moving images. (database 10 H)

34. The method of claim 7 wherein requesting a consultation includes submitting sounds. (“The database(s) 10H can also contain healthcare and/or medical video, image, and/or audio, data and/or information”)

35. The method of claim 8 wherein requesting a consultation includes submitting at least one of textual queries and textual statements. (1402-1405)

36. The method of claim 8 wherein requesting a consultation includes submitting at least one of still images and moving images. (database 10 H)

37. The method of claim 8 wherein requesting a consultation includes submitting sounds. (“The database(s) 10H can also contain healthcare and/or medical video, image, and/or audio, data and/or information”)

38. Tire method of claim 9 wherein requesting a consultation includes submitting at least one of textual queries and textual statements. (1402-1405)

39. The method of claim 9 wherein requesting a consultation includes submitting at least one of still images and moving images. (database 10 H)

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40. The method of claim 9 wherein requesting a consultation includes submitting sounds. (“The database(s) 10H can also contain healthcare and/or medical video, image, and/or audio, data and/or information”)

41. The method of claim 10 wherein requesting a consultation includes submitting at least one of textual queries and textual statements. (database 10 H)

42. The method of claim 10 wherein requesting a consultation includes submitting at least one of still images and moving images. (“The database(s) 10H can also contain healthcare and/or medical video, image, and/or audio, data and/or information, such as, for example, x-rays, Magnetic Resonant Images (MRI), CAT scans, digital x-ray files, digital Magnetic Resonant Imaging (MRI) files, digital CAT scan files, and/or any other video, imaging, and/or audio, healthcare data and/or information which can be utilized by healthcare providers, payers, intermediaries, patients, and/or other users of the present invention. In this manner, the present invention can facilitate the availability of any of the above-described video, image, and/or audio, data and/or information in a network environment. For example, a medical specialist can have access to, and/or review, an MRI or a CAT scan for a patient, from any location and at any time.”)

43. The method of claim 10 wherein requesting a consultation includes submitting sounds. (“The database(s) 10H can also contain healthcare and/or medical video, image, and/or audio, data and/or information”)

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44. The method of claim 11 wherein requesting a consultation includes submitting at least one of textual queries and textual statements. (1402-1405)

45. The method of claim 11 wherein requesting a consultation includes submitting at least one of still images and moving images. (“The database(s) 10H can also contain healthcare and/or medical video, image, and/or audio, data and/or information, such as, for example, x-rays, Magnetic Resonant Images (MRI), CAT scans, digital x-ray files, digital Magnetic Resonant Imaging (MRI) files, digital CAT scan files, and/or any other video, imaging, and/or audio, healthcare data and/or information which can be utilized by healthcare providers, payers, intermediaries, patients, and/or other users of the present invention. In this manner, the present invention can facilitate the availability of any of the above-described video, image, and/or audio, data and/or information in a network environment. For example, a medical specialist can have access to, and/or review, an MRI or a CAT scan for a patient, from any location and at any time.”)

46. The method of claim 11 wherein requesting a consultation includes submitting sounds. (“The database(s) 10H can also contain healthcare and/or medical video, image, and/or audio, data.”)

47. The method of claim 12 wherein requesting a consultation includes submitting at least one of textual queries and textual statements. (1402-1405)

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48. The method of claim 12 wherein requesting a consultation includes submitting at least one of still images and moving images. (“The database(s) 10H can also contain healthcare and/or medical video, image, and/or audio, data and/or information, such as, for example, x-rays, Magnetic Resonant Images (MRI), CAT scans, digital x-ray files, digital Magnetic Resonant Imaging (MRI) files, digital CAT scan files, and/or any other video, imaging, and/or audio, healthcare data and/or information which can be utilized by healthcare providers, payers, intermediaries, patients, and/or other users of the present invention. In this manner, the present invention can facilitate the availability of any of the above-described video, image, and/or audio, data and/or information in a network environment. For example, a medical specialist can have access to, and/or review, an MRI or a CAT scan for a patient, from any location and at any time.”)

49. The method of claim 12 wherein requesting a consultation includes submitting sounds. (“The database(s) 10H can also contain healthcare and/or medical video, image, and/or audio, data.”)

50. The method of claim 13 wherein requesting a consultation includes submitting at least one of textual queries and textual statements. (1402-1405)

51. The method of claim 13 wherein requesting a consultation includes submitting at least one of still images and moving images. (“The database(s) 10H can also contain healthcare and/or medical video, image, and/or audio, data and/or information, such as, for example, x-rays, Magnetic Resonant Images (MRI), CAT scans, digital x-ray files, digital Magnetic Resonant

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Imaging (MRI) files, digital CAT scan files, and/or any other video, imaging, and/or audio, healthcare data and/or information which can be utilized by healthcare providers, payers, intermediaries, patients, and/or other users of the present invention. In this manner, the present invention can facilitate the availability of any of the above-described video, image, and/or audio, data and/or information in a network environment. For example, a medical specialist can have access to, and/or review, an MRI or a CAT scan for a patient, from any location and at any time.”)

52. The method of claim 13 wherein requesting a consultation includes submitting sounds. (“The database(s) 10H can also contain healthcare and/or medical video, image, and/or audio, data.”)

53. The method of claim 1, further comprising storing the consultation submitted by the second healthcare provider and a third healthcare provider retrieving the stored consultation with a machine. (pc; computers)

54. The method of claim 53, wherein storing the consultation includes storing at least one of textual queries and textual statements. (1402-1405)

55. The method of claim 53, wherein storing the consultation includes storing at least one of still images and moving images. (“The database(s) 10H can also contain healthcare and/or medical video, image, and/or audio, data and/or information, such as, for example, x-rays, Magnetic Resonant Images (MRI), CAT scans, digital x-ray files, digital Magnetic Resonant Imaging

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(MRI) files, digital CAT scan files, and/or any other video, imaging, and/or audio, healthcare data and/or information which can be utilized by healthcare providers, payers, intermediaries, patients, and/or other users of the present invention. In this manner, the present invention can facilitate the availability of any of the above-described video, image, and/or audio, data and/or information in a network environment. For example, a medical specialist can have access to, and/or review, an MRI or a CAT scan for a patient, from any location and at any time.”)

56. The method of claim 53, wherein storing a consultation includes storing sounds. (“The database(s) 10H can also contain healthcare and/or medical video, image, and/or audio, data.”)

57. The method of claim 1, further comprising storing the consultation submitted by the second healthcare provider and displaying the consultation submitted by second healthcare provider to a third healthcare provider subsequent to the storing step. (1401-1406; col.39, lines 38-53 “In any and/or all of the embodiments described herein, any patient, provider, payer, user, and/or intermediary can access any one or more of the central processing computer(s) 10, the providers communication devices (20), the payer communication devices 30, the patient communication devices 40, and/or the intermediate communication devices 50, via any one or more of the said computers and/or communication devices 10, 20, 30, 40, and/or 50, as well as via any computer and/or communication device. In this manner, any of the herein-described parties can access the present invention from any computer and/or communication device. Public kiosks with links to any of the computers and/or communication devices 10, 20, 30, 40, and/or 50, can also be

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utilized to access and utilize the present invention and/or any of the computers and/or communication devices described”)

58. The method of claim 2, further comprising storing the consultation submitted by the second healthcare provider on a third machine and a third healthcare provider retrieving the stored consultation from the third machine with a fourth machine. (1401-1406; col.39, lines 38-53 “In any and/or all of the embodiments described herein, any patient, provider, payer, user, and/or intermediary can access any one or more of the central processing computer(s) 10, the providers communication devices (20), the payer communication devices 30, the patient communication devices 40, and/or the intermediate communication devices 50, via any one or more of the said computers and/or communication devices 10, 20, 30, 40, and/or 50, as well as via any computer and/or communication device. In this manner, any of the herein-described parties can access the present invention from any computer and/or communication device. Public kiosks with links to any of the computers and/or communication devices 10, 20, 30, 40, and/or 50, can also be utilized to access and utilize the present invention and/or any of the computers and/or communication devices described”)

59. The method of claim 58, wherein the third healthcare provider retrieving the stored consultation from the third machine with a fourth machine includes the third healthcare provider selecting the stored consultation from a plurality of stored consultations. (1401-1406; col.39, lines 38-53 “In any and/or all of the embodiments described herein, any patient, provider, payer, user, and/or intermediary can access any one or more of the central processing computer(s) 10,

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the providers communication devices (20), the payer communication devices 30, the patient communication devices 40, and/or the intermediate communication devices 50, via any one or more of the said computers and/or communication devices 10, 20, 30, 40, and/or 50, as well as via any computer and/or communication device. In this manner, any of the herein-described parties can access the present invention from any computer and/or communication device. Public kiosks with links to any of the computers and/or communication devices 10, 20, 30, 40, and/or 50, can also be utilized to access and utilize the present invention and/or any of the computers and/or communication devices described”)

60. The method of claim 58, further comprising displaying the stored consultation to the third healthcare provider on the fourth machine. (“The central processing computer 10 also includes a random access memory device(s) 10B (RAM) and a read only memory device(s) 10C (ROM), each of which is connected to the CPU 10A, a user input device 10D, for entering data and/or commands into the central processing computer 10, which includes any one or more of a keyboard, a scanner, a user pointing device, such as, for example, a mouse, a touch pad, and/or an audio input device and/or a video input device, and/or any device, electronic and/or otherwise which can be utilized for inputting and/or entering healthcare data and/or information, for example pulse rate monitors, blood pressure monitors, electrocardiograms, blood-sugars monitors, etc., if desired, which input device(s) are also connected to the CPU 10A. The central processing computer 10 also includes a display device 10E for displaying data and/or information to a user or operator.”)

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61. The method of claim 58, wherein the third healthcare provider retrieving the stored consultation includes a third healthcare provider retrieving at least one of textual queries and textual statements. (1402-1405)

62. The method of claim 58, wherein the third healthcare provider retrieving the stored consultation includes a third healthcare provider retrieving at least one of still images and moving images. (“The database(s) 10H can also contain healthcare and/or medical video, image, and/or audio, data and/or information, such as, for example, x-rays, Magnetic Resonant Images (MRI), CAT scans, digital x-ray files, digital Magnetic Resonant Imaging (MRI) files, digital CAT scan files, and/or any other video, imaging, and/or audio, healthcare data and/or information which can be utilized by healthcare providers, payers, intermediaries, patients, and/or other users of the present invention. In this manner, the present invention can facilitate the availability of any of the above-described video, image, and/or audio, data and/or information in a network environment. For example, a medical specialist can have access to, and/or review, an MRI or a CAT scan for a patient, from any location and at any time.”)

63. The method of claim 58, wherein the third healthcare provider retrieving the stored consultation includes a third healthcare provider retrieving sounds. (“The database(s) 10H can also contain healthcare and/or medical video, image, and/or audio, data and/or information, such as, for example, x-rays, Magnetic Resonant Images (MRI), CAT scans, digital x-ray files, digital Magnetic Resonant Imaging (MRI) files, digital CAT scan files, and/or any other video, imaging.”)

3. Claim 1 is also rejected under 35 U.S.C. 102(e) as being unpatentable over unpatentable over Fumiaki (US 6,272,470).

Fumiaki teaches a method for a first healthcare provider to consult a second healthcare provider regarding at least one of diagnosis and treatment of a patient, the method including the first healthcare provider requesting a consultation on a machine via the internet, and the second healthcare provider submitting a consultation on a machine via the internet, wherein requesting a consultation includes consult data and submitting a consultation includes the second healthcare provider's assessment and/or diagnosis. (see "abstract" and "summary of the invention")

Response to Arguments

4. Applicant's arguments filed 8/7/06 have been fully considered but they are not persuasive and are moot in view of the new ground(s) of rejection.

Applicant argues that Joao does not disclose or suggest a method including "the first healthcare provider requesting a consultation on a machine via the internet, and the second healthcare provider submitting a consultation on a machine via the internet". In contrary, Joao teaches a internet based apparatus and method for providing healthcare information to all users. ("the intermediary computer(s) 50, can communicate with one another, and/or be linked to one another, over a communication network, a telecommunication network, a telephone network, a line-connected network, and/or a wireless communication network. Each of the computers 10, 20, 30, 40, and 50, can be linked with any other computer or computers directly or indirectly directly or indirectly with one another so as to facilitate a direct or indirect bidirectional communication said respective computers.") therefore, Joao teaches a method including the first

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healthcare provider (10, 20, 30, 40, 50) requesting a consultation (step 703 "Obtain patient information") on a machine via the internet, and the second healthcare provider submitting a consultation on a machine via the internet, (col.5, line 45- "The present invention can also be utilized to perform treatment evaluations and/or treatment monitoring so as to allow for an evaluation and/or a monitoring of treatment") wherein requesting a consultation includes consult data and submitting a consultation includes the second healthcare provider's assessment and/or diagnosis.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey C. Pwu whose telephone number is 571-272-6798. If

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attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



11/11/06

JEFFREY PWU
PRIMARY EXAMINER